

entities, which includes businesses, organizations, or governmental jurisdictions. Because of the completely voluntary nature of the Safe Harbor program, no significant effects are expected on non-Federal cooperators exercising their option to enter into a Safe Harbor Agreement. Therefore, this policy would have minimal effect on such entities.

This policy has been determined to be not significant for purposes of Executive Order 12866. Therefore, it was not subject to review by the Office of Management and Budget.

The Services have determined and certify pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this proposed policy will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The Departments have determined that these proposed policy meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

The Services have examined this proposed policy under the Paperwork Reduction Act of 1995 and found it to contain no requests for additional information or increase in the collection requirement other than those already approved under the Paperwork Reduction Act of 1995 for incidental take permits with OMB approval #1018-0022 which expires July 31, 1997. The Service requested renewal of the OMB approval and in accordance with 5 CFR 1320 will not continue to collect the information, if the approval has expired, until OMB approval has been obtained.

The Department has determined that the issuance of the proposed policy is categorically excluded under the Department of Interior's NEPA procedures in 516 DM 2, Appendix 1.10. NMFS concurs with the Department of Interior's determination that the issuance of the proposed policy qualifies for a categorical exclusion and falls within the categorical exclusion criteria in NOAA 216-3 Administrative Order, Environmental Review Procedure.

Public Comments Solicited

The Services request comments on their Draft Safe Harbor Policy. Particularly sought are comments on the procedures or methods for enhancing the utility of the Safe Harbor Policy in carrying out the purposes of the Act.

The Services also are interested in the views of interested parties on the appropriateness of linking "Safe Harbor" Agreements to incidental take permits issued under section 10(a)(1)(B) of the Act. In certain situations, HCP permittees might be willing to conduct

activities that would enhance listed species populations above their mitigation obligations under an incidental take permit or HCP. The Services are interested in ideas, comments, and suggestions on this concept. The Services also are requesting ideas, comments or suggestions on how to delineate the baseline conditions for a Safe Harbor Agreement that is linked to an HCP incidental take permit. After consideration of all comments received on this question, the Services will decide whether it is appropriate to utilize Safe Harbor Agreements in connection with HCPs.

If the Services decide that it is appropriate to provide these assurances to incidental take permittees, the Services will publish a proposed policy on how best to provide such assurances.

In addition, situations may arise where a property owner may want to recover or conserve numerous species, both listed and unlisted on their property, and may want to enter into both a Safe Harbor Agreement and a Candidate Conservation Agreement. The Services are also seeking comments, and are interested in ideas and suggestions on the ways to streamline and combine these processes when developing these two types of agreements with the same property owner.

The Services will take into consideration the comments and any additional information received by the Services by August 11, 1997. To ease review and consideration of submitted comments, the Services prefer that reviewers organize their comments by part (e.g., Part 1. Purpose, Part 2. Definitions, and linking Safe Harbor Agreements with HCP permits).

Dated: May 27, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

Dated: June 2, 1997.

Rolland A. Schmitt,

*Assistant Administrator for Fisheries,
National Oceanic and Atmospheric
Administration.*

[FR Doc. 97-15250 Filed 6-9-97; 1:26 pm]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Announcement of Draft Policy for Candidate Conservation Agreements

AGENCY: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce.

ACTION: Announcement of draft policy; request for public comments.

SUMMARY: The Fish and Wildlife Service and the National Marine Fisheries Service (Services) announce a joint Draft Policy for Candidate Conservation Agreements (Agreements) under the Endangered Species Act of 1973, as amended (Act). This policy would provide incentives for private and other non-Federal property owners, and State and local land managing agencies, to restore, enhance, or maintain habitats for proposed, candidate and certain other unlisted species. Candidate Conservation Agreements would be developed by participating property owners or State or local land managing agencies to remove the need to list the covered species as threatened or endangered under the Act. The Services will coordinate closely with the appropriate State agencies and any affected Native American Tribal governments before entering into Candidate Conservation Agreements with property owners to conserve covered species.

Under this policy, either Service, or the Services jointly, would provide participating property owners and State and local land managing agencies with technical assistance in the development of Candidate Conservation Agreements and would provide assurances that, if covered species are eventually listed, the property owners or agencies would not be required to do more than those actions agreed to in the Candidate Conservation Agreement. If a species is listed, incidental take authorization would be provided to allow the property owner or agency to implement management activities that may result in take of individuals or modification of habitat consistent with those levels agreed upon and specified in the Agreement.

Published concurrently in this **Federal Register** are the Fish and Wildlife Service's (FWS) proposed regulations necessary to implement this policy. The Services seek public comment on this proposed draft policy.

If adopted in final form, this policy will be incorporated into the FWS's Candidate Conservation Handbook.

DATES: Comments on the draft policies must be received by August 11, 1997.

ADDRESSES: Send any comments or materials concerning the Draft Policy for Candidate Conservation Agreement to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 452 ARLSQ, Washington, D.C. 20240 (Telephone 703/358-2171, Facsimile 703/358-1735). You may examine comments and materials received during normal business hours in room 452, Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia. You must make an appointment to examine these materials.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Fish and Wildlife Service, Division of Endangered Species (Telephone (703) 358-2171) or Nancy Chu, National Marine Fisheries Service, Chief, Endangered Species Division (Telephone (301) 713-1401).

SUPPLEMENTARY INFORMATION:

Background

Much of the nation's current and potential fish and wildlife habitat is on non-Federal property, owned or regulated by private citizens, States, municipalities, Native American Tribal governments, and other non-Federal entities, or managed by State and local agencies. Conservation efforts on non-Federal lands and waters are critical to the long-term conservation of many declining species. More importantly, a collaborative stewardship approach is critical for the success of such an initiative.

Emphasis on early conservation efforts for proposed and candidate species, and species likely to become either proposed or candidate species in the near future, allows the Services to seek opportunities for both Federal and non-Federal entities to stabilize and recover these species and their ecosystems through Candidate Conservation Agreements before listing becomes necessary. By addressing the conservation of proposed and candidate species, and species likely to become candidates in the near future, the Services and other Federal and non-Federal entities retain management flexibility, while ensuring measurable conservation actions are implemented for these species before their long-term existence is compromised. Implementation of effective conservation actions allows the Services to focus their limited listing resources on those species facing the greatest

threats and likely to be in the greatest need of the full range of the Act's protective measures. The Services recognize the critical importance of seeking opportunities to implement conservation actions for these species in full cooperation with other Federal agencies, State and Tribal governments, local governments, conservation organizations, private landowners, and other stakeholders before listing becomes necessary.

In the past, conservation actions instituted for a candidate species may have reduced or entirely removed the threats to the species' survival and, in a few instances, completely removed the need to list the species. Most of these actions have been accomplished through conservation agreements between the Services and other Federal agencies. However, given the fact that many proposed and candidate species occur on non-Federal lands, it is of critical importance to establish voluntary programs that encourage non-Federal landowners to implement proactive conservation measures for these declining species. By deferring implementation of conservation activities for these species until they are listed, the ecological integrity of their habitats is compromised, thus in some cases severely limiting recovery options available. As a result, costs to achieve species recovery are often high. Greater efforts in addressing the conservation needs of candidate species before their status becomes critical provide an ecologically sound and cost-effective means to conserve species.

Many property owners are willing to voluntarily manage their lands and waters to benefit fish, wildlife, and plants, especially those species that are declining. Beneficial management could include actions to maintain habitat or improve habitat (e.g., restoring fire by prescribed burning, restoring properly functioning hydrological conditions). Property owners are particularly concerned about possible future uncertainty relative to land-use or resource-use restrictions that may result if species colonize their lands or waters or increase in numbers or distribution because of the property owners' conservation efforts and subsequently become listed as a threatened or endangered species. Concern centers primarily on the applicability of the section 9 "take" prohibitions if species occupy their lands or waters and on future land-use or resource-use restrictions that may result from their conservation-oriented management actions if those species are listed. The potential for future restrictions has led property owners to avoid or limit land

and water management practices that could enhance or maintain habitat and benefit or attract fish and wildlife and plants that may be listed in the future.

In 1994, the Service prepared Draft Candidate Species Guidance (Guidance), which underwent public review and comment (see 59 FR 65780, December 21, 1994). However, it did not address the development of Candidate Conservation Agreements with assurances for non-Federal property owners. This aspect of Candidate Conservation Agreements is addressed in the policy described here.

Through the implementation of this policy, the Services intend to facilitate a collaborative approach for the conservation of proposed and candidate species, or species likely to become candidate or proposed species in the near future. Such an approach places emphasis on the involvement and cooperation among critical stakeholders in the conservation of these species, including, but not limited to, private property owners, State and local agencies, Native American Tribal governments, and non-governmental organizations. Collaborative stewardship with State fish and wildlife agencies is particularly important given their statutory role under the Act and their traditional conservation responsibilities and authorities for resident species. In exchange for proactive conservation management activities benefitting candidate and proposed species, the Services would provide regulatory certainty and assurances to the participating property owner in case the covered species is subsequently listed. Once finalized, this policy will be incorporated into the final handbook on candidate species conservation; the final handbook will be based on the 1994 Draft Candidate Species Guidance with revisions based on the comments received upon the 1994 draft and including the final version of the policy proposed here.

The Services have a long history of working with Federal agencies to develop Candidate Conservation Agreements, and such collaborative efforts with other Federal agencies will continue to be a high priority. Because of the proactive obligations for Federal agencies in the Act, providing assurances through Candidate Conservation Agreements is not appropriate for Federal agencies.

Providing assurances to non-Federal property owners is an incentive-based approach to encourage these landowners to enter into voluntary conservation programs while providing them certainty relative to future obligations under the Act. The Services

can also enter into Candidate Conservation Agreements with State and local land management agencies and provide the same assurances under this new policy. In addition, the Services could also enter into comprehensive "umbrella" agreements with State fish and wildlife agencies and through such agreements provide assurances to any non-Federal property owners. These assurances will only be provided to the participating landowners or State or local land managing agencies but not to State regulatory agencies. Therefore, after the finalization of this policy and its incorporation into the Services' Candidate Species Guidance, two basic types of Candidate Conservation Agreements would be available: (1) Candidate Conservation Agreements without assurances and (2) Candidate Conservation Agreements with assurances (exclusive for non-Federal landowners).

The Services will focus the implementation of this policy on proposed and candidate species with the goal of removing threats facing these species and therefore preclude the need to list these species in the future. The benefits derived from these proactive collaborative conservation agreements can have significance in the Services' listing decisions. This is especially true for Candidate Conservation Agreements that provide assurances, since for the Services to provide such assurances, the provisions to be carried out under these agreements must be expected to remove the need to list the covered species covered or be expected to remove the need to list if undertaken by similarly situated landowners within the range of the covered species. For species occurring primarily on Federal lands, a Candidate Conservation Agreement without assurances would also, in some cases, eliminate enough of the threats to the species and remove the need to list. However, the determination whether these agreements will in fact remove the need to list a species will be determined on a case-by-case basis and with adequate public participation.

The Fish and Wildlife Service's proposed regulatory changes necessary to implement this draft policy are published elsewhere in this issue of the **Federal Register**. The proposed rule provides the Fish and Wildlife Service's procedures to implement both the Safe Harbor policy (also published elsewhere in this issue of the **Federal Register**) and the Candidate Conservation Agreement policy. The National Marine Fisheries Service will develop proposed regulatory changes implementing these policies, to be published subsequently.

Candidate Conservation Agreement Policy

Part 1. Purpose

The ultimate goal of Candidate Conservation Agreements developed under this policy is to encourage, to the extent feasible and controllable by a participating property owner or State or local land management agency, the removal of threats to the covered species so as to nullify the need to list them as threatened or endangered under the Act. Unlike Safe Harbor Agreements, which are developed only for listed species, the targets of Candidate Conservation Agreements are proposed and candidate species of fish, wildlife, and plants; species likely to become candidate species in the near future may also be included. The management and conservation benefits of activities carried out under Candidate Conservation Agreements, if undertaken on a broad enough scale by other property owners similarly situated within the range of the species, should be expected to preclude the need for listing species covered by the Agreement as threatened or endangered under the Act. Safe Harbor Agreements, on the other hand, focus on the restoration, enhancement, or maintenance of terrestrial and aquatic habitats of listed species thereby contributing to their recovery.

While some property owners and State and local land management agencies are willing to manage their lands and waters to benefit proposed and candidate species, or species likely to become candidates in the near future, most desire some degree of assurances relative to future land- or resource-use restrictions. By providing regulatory certainty in these Candidate Conservation Agreements, property owners and agencies help define and know in advance what level of land- or resource-use restrictions they may incur in the event the Services list a species covered by an Agreement. If the Services list a covered species in the future, incidental take authorization would be provided to allow the property owner or State or local land management agency to implement management activities that may result in take of individuals or modification of habitat above those levels agreed upon and specified in the Agreement. Without such assurances, most property owners and agencies will not have as much incentive to undertake candidate conservation initiatives on their property.

Candidate Conservation Agreements and associated activities will be developed in close coordination and

cooperation with the appropriate State fish and wildlife agencies and other affected State agencies and Native American Tribal governments, as appropriate. The need for close coordination with State fish and wildlife agencies is particularly important given their primary responsibilities for unlisted resident species. These Agreements are to be consistent with applicable State laws and regulations governing the management of these species and must be voluntary for the property owners or State or local land management agency.

The Services must reasonably expect that the management actions agreed to and included in any Agreement, if performed by all landowners in similar situations, will be adequate to remove the threat(s) to proposed, candidate, and species likely to become a candidate or proposed species in the near future and are covered by the Agreement, thereby eliminating the need to list the covered species. Pursuant to section 7 of the Act, the Services must also ensure that those management actions do not jeopardize listed or proposed species and do not destroy or adversely modify proposed or designated critical habitats that may occur in the area.

The Services recognize that some property owners or State or local land managing agencies may not have the necessary resources or expertise to develop Candidate Conservation Agreements. In such cases where the willing property owner or agency lacks the resources or expertise, the Services are committed to providing the necessary technical assistance, to the maximum extent practicable and given available resources, to develop effective Candidate Conservation Agreements that will be sufficient to remove the need to list the covered species. Further, the Services may also help carry out some management actions (e.g., prescribed burning) or train property owners in the implementation of management techniques.

Either Service or the Services jointly will work with the participating landowner in the development of their permit application and the Candidate Conservation Agreement. The Services will provide the necessary technical assistance to the landowner in developing mutually agreeable management actions that the landowner is willing to voluntarily undertake or forgo that will provide a net conservation benefit and help the landowner describe how these activities will benefit covered species. Development of an acceptable permit application and an adequate Candidate Conservation agreement is intricately

linked. Either Service or the Services jointly will process the participating landowner's permit application following the Candidate Conservation permitting process as described in 50 CFR part 17. During this permit process all parties to the Agreement will work in close coordination in the development of the Agreement to ensure that measures included in the agreement are consistent with the terms and conditions of the permit. Once the permit is issued the parties to the Agreement can finalize and sign the Agreement.

Availability of resources will also be a governing factor for the Services. The Services expect the interest in Candidate Conservation Agreements to be high and the demand for technical assistance to property owners to be great. Candidate Conservation Agreements are developed using candidate conservation funding which is extremely limited; thus the Services may have to prioritize their participation in Candidate Conservation Agreements based upon the conservation benefits provided to the covered species. In addition, priority will be given to Agreements where sufficient information exists to develop sound conservation measures. The Services will work with State, Tribal, and other interested parties to fill information gaps for species requirements that have not been adequately documented in the scientific literature.

Part 2. Definitions

The following definitions apply for the purposes of this policy.

"Candidate Conservation Agreement" means an Agreement signed by either Service, or both Services jointly, and a property owner, and any other cooperator, if appropriate, or with a State or local land management agency, that: (a) Sets forth specific management activities that the private or non-Federal property owner, or State or local land management agency, will voluntarily undertake to conserve the covered species; (b) specifies management activities that are adequate to remove the need to list the covered species, if such actions were undertaken by other property owners similarly situated within the range of the species; and (c) for agreements with assurances, provides the property owner or State or local land management agency with the Candidate Conservation assurances described within the Agreement and authorized in the enhancement of survival permit.

"Candidate Conservation Assurances" are assurances provided in

the Agreement and authorized in an enhancement of survival permit for covered species, by either Service, or both jointly, to a non-Federal property owner or State or local land management agency that would allow the property owner or agency to take individuals of the covered species or alter or modify habitat consistent with the levels agreed upon and specified in the Agreement, even if the covered species are eventually listed. Such assurances may apply to whole parcels, or portions thereof, of the property owner's or land management agency's property as designated in the Agreement. These assurances are dependent upon the Agreement being adequate to remove the need to list the covered species, if such actions were undertaken by other property owners similarly situated within the range of the species. The assurances are also dependent on the property owner's or land management agency's compliance with the obligations in the Agreement and in the enhancement of survival permit.

"Candidate species" are defined differently by the Services based on their different programs. The FWS defines a candidate species as a species for which the FWS has sufficient information on file relative to status and threats to support issuance of a proposed listing rule. The National Marine Fisheries Service defines a candidate species as a species for which concerns remain regarding their status, but for which more information is needed before they can be proposed for listing. The term *"candidate species"* used in this policy refers to those species designated as candidates by either of the Services.

"Covered species" means a species that is the subject of a Candidate Conservation Agreement. Covered species are limited to species that are candidates or proposed for listing and species that may become candidates or proposed in the near future. Those species covered in the Agreement must be treated as if they were listed.

"Enhancement of survival permit" means a permit issued under the authority of section 10(a)(1)(A) of the Act.

"Management activities" are voluntary conservation actions to be undertaken by a property owner or State or local land management agency that the Services believe will eliminate the need to list the species.

"Property owner" includes, but is not limited to, private individuals, organizations, businesses, Native American Tribal governments, and other non-Federal entities.

"Proposed species" is a species for which the Services, based on the best available scientific and commercial information, have published a proposed rule to list it as an endangered or threatened species under provision of section 4 of the Act.

Part 3. Candidate Conservation Agreements

The Agreement will identify:

A. At the time the parties negotiate the Agreement, the existing population levels (if available or determinable) of the covered species, or the existing habitat characteristics that sustain any current, permanent, or seasonal use by the covered species on lands or waters under the property owner's or State or local land management agency's control, or habitat characteristics that support populations of covered species in waterways that may not be under the property owner's or agency's control must be determined;

B. The management actions the property owner or State or local land management agency is willing to undertake to conserve the covered species included in the Agreement. The Services, or either Service, must have determined that these management actions are of sufficient design to remove the threat(s) to those species adequately to avoid listing, or be sufficient enough, if undertaken by other property owners or agencies similarly situated, to remove the threat(s) to avoid listing;

C. An estimate of the expected conservation benefits as a result of management actions described in B above (e.g., increase in population numbers; enhancement, restoration, or preservation of suitable habitat) and the conditions that the property owner or State or local land management agency agrees to maintain that will remove the threats to the species and eliminate the need to list the covered species. The conservation benefits must remove the threats to the species adequately to eliminate the need to list the species. In many cases, a single property owner's or agency's activities alone will not be sufficient to eliminate the need to list. In such cases, the Services will enter into an Agreement when the activities to be carried out by the property owner or agency, if conducted by other property owners or agencies throughout the range of the affected species, would be expected to adequately remove threat(s) to the species to eliminate the need to list;

D. Assurances provided by the Services that no additional management actions would be required of the property owner or State or local land

management agency above those agreed to in B above should the covered species be listed in the future. In addition, the Services would authorize actions that may result in incidental take consistent with those levels agreed to in A and C above through a section 10(a)(1)(A) Enhancement of Survival permit;

E. The level of monitoring necessary to determine how the species is responding to the prescribed management activities should be built into the Agreement or permission for the Services to conduct such monitoring should be included in the Agreement; and,

F. A notification requirement, where appropriate and feasible, to provide the Service, or Services, or appropriate State agencies with a reasonable opportunity to rescue individual specimens of a covered species before any authorized incidental taking occurs.

Part 4. Benefit to the Species

Before entering into an Agreement, the Services or either Service must make a written finding that species included in such an Agreement will receive a sufficient conservation benefit from the activities conducted under the Agreement. This benefit must be expected to be of a level that, if undertaken on a broad enough scale by other property owners or State or local land management agencies similarly situated, would be cumulatively significant enough to remove the need to list the covered species. Expected benefits could include, but are not limited to: reduction in habitat fragmentation rates; restoration and enhancement of habitats; maintenance or increase of population numbers; and reduction of the effects of catastrophic events. If the Service and the property owner or land management agency cannot agree to a set of management actions adequate to remove the need to list a species covered in the Agreement if such actions were undertaken by other property owners or agencies similarly situated within the range of the species, the Service will not enter into the Agreement.

Part 5. Assurances to Property Owners

The Services, in the Candidate Conservation Agreement, will provide that if any species covered by the Agreement is listed, and the Agreement has been implemented in good faith by the participating property owner or State or local land management agencies, the Services will not assert additional restrictions or require additional actions above those the property owner or State or local land management agencies voluntarily

committed to conduct, incur, or maintain under the terms of the original Agreement. Such assurances will be provided to the participating property owner or non-Federal land management agency through a section 10(a)(1)(A) enhancement of survival permit, which will allow the property owner or agency to implement management activities that may result in take of individuals or modification of habitat consistent with levels agreed upon and specified in the Agreement. Under this process, the Services or either Service would issue an enhancement of survival permit at the time of entering into the Agreement. Such a permit would have a delayed effective date tied to the date of any future listing for a covered species. The Services believe that an enhancement of survival permit is particularly well suited for the Candidate Conservation Agreement program because the central purpose of such Agreements is to enhance the survival of declining species. It is equally appropriate to issue such a permit to a participating property or resource owner as a way of rewarding their proactive voluntary conservation efforts and shielding such persons from any additional restrictions which might otherwise affect them if a species is subsequently listed.

Part 6. Public Review of Candidate Conservation Agreements

When a draft Candidate Conservation Agreement is developed for a proposed species, the draft Agreement will be available for public review. Whenever possible, the Services will invite public review and comment on these Agreements for at least 30 days. In making final listing determinations the Services will consider the conservation benefits provided by these agreements and all comments received regarding those conservation benefits. When providing assurances to a non-Federal landowner or State or local land management agency through a Candidate Conservation Agreement, the Services will invite public review and comment on the Agreement prior to issuing any enhancement of survival permit needed to provide the assurances.

Required Determinations

A major purpose of this proposed Candidate Conservation Agreements Policy is the facilitation of voluntary cooperative programs for the proactive management of non-Federal lands and waters for the benefit of proposed and candidate species and species likely to become candidates in the near future. From the Federal government's perspective, implementation of this

policy would result in minor expenditures (e.g., providing technical assistance in the development of site-specific management plans). The benefits derived from such management actions on non-Federal lands and waters would remove threats to proposed, candidate, or other soon to become candidate species. Non-Federal program participants would be provided regulatory certainty as a result of their voluntary management actions. In some cases, such participants may incur minor expenditures to carry out some management actions on their lands or involving their water. The Services have determined that the proposed rule would not result in significant costs of implementation to the Federal government or to non-Federal program participants.

The Director of the Fish and Wildlife Service certified to the Chief Counsel for Advocacy of the Small Business Administration that a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) has revealed that this policy would not have a significant effect on a substantial number of small entities, which includes businesses, organizations, or governmental jurisdictions. Because of the completely voluntary nature of the Candidate Conservation program, no significant effects are expected on non-Federal cooperators exercising their option to enter into a Candidate Conservation Agreement. Therefore, this policy would have minimal effect on such entities. NMFS concurs with this certification. This policy was not subject to review by the Office of Management and Budget under Executive Order 12866.

The Services have determined and certify pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this policy will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The Departments have determined that this proposed policy meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

The Department has determined that the issuance of the proposed policy is categorically excluded under the Department of Interior's NEPA procedures in 516 DM 2, Appendix 1.10. NMFS concurs with the Department of Interior's determination that the issuance of the proposed policy qualifies for a categorical exclusion and falls within the categorical exclusion criteria in NOAA 216-3 Administrative Order, Environmental Review Procedure.

Public Comments Solicited

The Services request comments on their Draft Policy for Candidate Conservation Agreements. Particularly sought are comments on the procedures or methods for enhancing the utility of the Candidate Conservation Agreements Policy in carrying out the purposes of the Act.

In addition, situations may arise where a property owner may want to recover or conserve numerous species, both listed and unlisted on their

property, and may want to enter into both a Candidate Conservation Agreement and a Safe Harbor Agreement. The Services are also seeking comments and are interested in ideas and suggestions on the ways to streamline and combine these processes when developing these two types of agreements with the same property owner. The Services will take into consideration the comments and any additional information received by the Services by August 11, 1997.

Dated: May 27, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

Dated: June 2, 1997.

Rolland A. Schmitten,

*Assistant Administrator for Fisheries,
National Oceanic and Atmospheric
Administration.*

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